IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.5560 OF 2004

Shri Arun Yashwant Ukarde, .. Petitioner

Vs

1. Smt Sudha Pandurang Kate, & Anr. .. Respondents

Mr.S.A.Sawant, for the petitioner.

The respondent, though served, absent.

CORAM : D.B.BHOSALE,J.

DATE : 21st October, 2004.

PC:

1. Heard the learned counsel for the petitioner.

2. This petition is directed against the order dated 27.4.2004 passed below Exhibit 14 in Spl.Civil Suit No.887 of 2003, by which the petitioner's application Exhibit-14 under Order I rule 10 of the Code of Civil Procedure has been rejected. In the said application, the petitioner had prayed for adding him as party defendant in the suit filed by respondent no.1 against respondent no.2 for restoration of the electric supply and installation of three phase meter. The petitioner claims that he is a landlord of the suit premises. He has alleged that the plaintiff is an encroacher and unauthorised occupier of Gala No.2 and, therefore, he is not entitled for electric connection without his

consent. Mr.Sawant, learned counsel for the petitioner, invited my attention to the averments in paragraph 2 of the application Exhibit-14 filed under Order I rule 10 of CPC. In that paragraph the petitioner has stated that respondent no.1 has filed Regular Civil Suit No.718 of 2000 in the same Court seeking identical relief against the petitioner and that suit is still pending. Keeping that in view and considering the overall facts and circumstances of the case, in my opinion, the presence of the petitioner before the Court is necessary in order to enable the Court to effectively and completely adjudicate upon and settle all questions involved in the suit. If the petitioner is added as party in the instant suit, the suit filed by respondent no.1 bearing no.718 of 2000 will also stand worked out. In the circumstances, the writ petition is allowed in terms of prayer clause (a).

3. The plaintiff to carry out amendment adding the petitioner as party defendant in the suit within four weeks from the date of production of this order before the trial Court. The trial Court may issue necessary notice to the plaintiff for complying with this order.

. An authenticated copy of this order may be made available to the parties.

(D.B.BHOSALE, J.)

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